



Maricopa County

Air Quality Department

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MARICOPA COUNTY TRAVEL REDUCTION PROGRAM TASK FORCE ENFORCEMENT POLICY

Adopted: January '02

Reviewed/Revised: March '05
August '09

I. PURPOSE

The purpose of this policy is to provide a consistent process for documenting Travel Reduction Program (TRP) violations, notifying alleged violators and initiating enforcement action in a timely and consistent manner.

II. REFERENCE

Arizona Revised Statutes 49-581 through 49-593 and Maricopa County Ordinance P-7 (i.e. Sections 4, 11, 12).

III. APPLICABILITY

This policy applies to all violations outlined in A.R.S. 49-581 through 49-593 and Maricopa County Ordinance P-7. Violations include, but are not limited to: failure to collect/supply information requested by the Task Force, distribute alternate mode/measure information, designate a transportation coordinator (TC), submit an approvable plan/required revisions, complete the annual survey or implement an approved plan as scheduled.

IV. PROCESS

A. Initial Notification

TRP Support Staff and/or Section Supervisors will initially notify an employer of a delinquency and offer the employer an opportunity to resolve the matter. At this stage, the notice may be provided via fax, U.S. Mail, a documented phone call and/or email.

The amount of additional time offered (if requested) will vary depending on the complexity/volume of work involved, employer's history of compliance or current circumstances. Typically, no more than 14 additional days would be offered to submit a plan, audit documentation or survey-related forms.

Employers that request more than a 14-day extension will be asked to submit their request in writing (email or fax) and include adequate justification or supporting documentation. Written requests will be reviewed by Section Supervisors and forwarded to the Program Manager for a final review/ruling.

Employers that fail to respond to the first notice or fail to meet the extended deadline will be elevated to the Section Supervisor for review. At this point, a Notice of Violation (NOV) may be issued to the employer. The Program Manager will review/sign the NOV before it is sent to the employer's TC and highest ranking local official (HRLO) via fax (or email) and certified mail. The NOV will typically offer 7 days to resolve the matter.

B. Second Notification (Task Force Review)

Employers that fail to resolve a delinquency after staff completes the "Initial Notification" process should be scheduled on the Task Force agenda for discussion/action. Staff will provide written notice to the TC and HRLO that references the NOV, confirms the meeting date/time/location and purpose of the Task Force review. This notice will indicate the employer may attend the meeting and that staff will request the matter be withdrawn if the violation is resolved prior to the meeting. This notice will be sent via fax (or email) and certified mail.

Staff will provide the Task Force with documentation needed to discuss/review the matter. Documentation may include a copy of the Notice of Violation (NOV), a "sequence of events", a formal staff recommendation, copies of submitted plans, Requests for Documentation (RFDs) and/or correspondence submitted by the employer.

The employer will be provided an opportunity to address the Task Force during the formal meeting. The Task Force will vote to accept, reject or modify staff's recommendation for enforcement or postpone the request to a future meeting. The Task Force may also request additional information from staff or the employer before voting to take enforcement action.

Sections 4D & 4E of County Ordinance P-7 outline 10 working days would be offered to an employer to resolve plan development or survey deficiencies. Section 4F of Ordinance P-7 does not specify a minimum number of days to be offered for 'plan implementation' deficiencies, but staff has generally recommended 7 calendar days be offered. The complexity and volume of information needed may cause the Task Force and/or staff to recommend additional time be offered to the employer.

All Task Force decisions will be documented in the formal meeting minutes.

C. Third Notification (Task Force Notice)

The Task Force Chairman or Assistant Chairman will provide a written notice to the employer to confirm the ruling made during the formal meeting. This notice will detail what actions are necessary to correct the deficiency, identify a deadline and state the employer may be referred for enforcement action if the deadline is not met. This notice will be sent to the employer's TC and HRLO via fax (or email) and certified mail.

D. Request for Additional Time or Review

Employers that request additional time or consideration from the Task Force (regarding the requirements outlined in the Task Force Notice) will be directed to communicate with the Assistant Chairman of the Task Force (TRP Program Manager). The Assistant Chairman will determine if the employer's request should be denied or if it warrants further discussion by the Task Force before the matter would be forwarded to the County Attorney's Office.

E. Referral to County Attorney

If the Task Force Notice deadline has expired and the employer has failed to comply with all parts of the Task Force Notice, the Assistant Chairman will determine if the matter should be forwarded to the County Attorney or held until the Task Force can review new developments. The Task Force or the Assistant Chairman of the Task Force may delay this referral if the employer is actively demonstrating a "good faith effort" to resolve all deficiencies.

Before an employer's case is forwarded to the County Attorney, staff will prepare a packet that includes copies of all correspondence, the 'Notice of Violation' (NOV), 'Request for Documentation', meeting agendas/minutes, approved plans, audit reports and a current 'sequence of events' to clarify the timelines. That package will be sent to the County Attorney for review and possible "appropriate legal action" (A.R.S. 49-593). The County Attorney will review all supporting evidence and determine if the Task Force has complied with this policy and properly documented the case. Any deficiencies in the process or paperwork will be directed back to the Assistant Chairman of the Task Force for corrective action.

Staff, the Assistant Chairman and the County Attorney (when appropriate) will provide updates on each pending enforcement action during formal Task Force meetings.

F. Enforcement Actions

The County Attorney may receive authorization from the Board to take appropriate legal action (A.R.S. 49-593), which may include working with the Task Force to arrive at a negotiated settlement with the employer.

Previous enforcement actions have been successfully resolved through written and verbal communications between the County Attorney and the employers. To expedite compliance and settlement communications, the Task Force has asked the County Attorney to use the NOV issuance date as "violation day one" when calculating the total potential (maximum) fine. A court ruling, revised opinion from the County Attorney or direction from the Board may require the Task Force to revise the penalty calculation.

Should the Board authorize legal action, the County Attorney will determine if a settlement offer or formal legal action will require any additional notifications from the Task Force (i.e. "Right to Appeal to the Board" per A.R.S. 49-592).

G. Civil Penalties

The Task Force has requested the County Attorney review any proposed settlement with the Task Force in an Executive Session and may vote to provide a recommendation to the County Attorney and the Board to resolve the matter.

All settlement funds should be submitted directly to the Maricopa County Air Quality Department and must be deposited in the County's General Fund (A.R.S. 49-593 (D)).

DEFINITIONS

Alternative mode means any mode of commute transportation other than the single-occupancy vehicle.

Approvable Travel Reduction Program means a plan meeting the requirements of County Ordinance P-7, Section 7 (C).

Board means the Maricopa County Board of Supervisors.

County means Maricopa County.

Documentation means copies of promotions, receipts, registration forms/lists, reports or other information an employer must supply to support the approval/implementation of a plan or annual survey.

Employer means a sole proprietor, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, public or private, who employs 50 or more employees working at, or reporting to, a single work site. It also includes school districts, community college, trade school, university, or other educational institution having 50 or more employees or students working at, or reporting to, a single school site.

Highest Ranking Local Official (HRLO) – individual that is identified by the employer as being authorized to approve and oversee the funding/implementation of that employer's Plan.

Notice of Violation (NOV) means written notification that outlines deficiencies and provides a deadline to correct before the matter is sent to the Task Force for enforcement consideration.

Plan: see approvable Travel Reduction Program.

Request for Documentation (RFD) means a form issued to an employer that outlines documentation that wasn't initially available but is required to complete the audit.

Staff means the County TRP employees (support, supervisory and management) that are assigned to administer the program and support the Task Force.

Task Force means the Travel Reduction Regional Task Force, designated by the Board as the responsible agency to implement and enforce this ordinance, and established in the County by Title 49, Chapter 3, Article 8, Arizona Revised Statutes.

Transportation Coordinator means a person designated by a major employer or school to serve as the lead person in developing and implementing a Travel Reduction Program.

Travel (Trip) Reduction Program (TRP) means a program that implements a Travel reduction plan by an employer or school and is designed to achieve target reductions in the rate of single-occupancy vehicle trips and/or in the rate of single-occupancy vehicle miles traveled. Reductions can occur through the implementation of various trip reduction measures and/or equivalent emissions reduction measures.